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Defense Base Act (DBA) Insurance

PARC Conference

8 Dec 05

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OVERVIEW

- Implementation of USACE-wide Pilot Program
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Implementation of USACE-wide Pilot Program

- What is DBA Insurance?
  - Congressionally mandated
  - Contractors Must buy DBA Insurance – Employees – OCONUS
- When is it Required?
  - Contractors & Subcontractors Unless Waived by DOL
    - No Waiver If:
      - Hired in the US
      - Resident of the US
      - Citizen of the US
      - No Local Compensation Law
- PARC Instruction Letter
  - One-year Pilot Program for Workman's Compensation Insurance
  - Fixed Rates
    - Services - $5.00 per $100 of Compensation
    - Construction - $8.50 per $100 of Compensation

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Backgroung/History

- History of DBA Insurance Rates
- Oct 03 – USACE Chartered to Conduct Pilot
- Dec 03 – OSD Policy - FAR Clause 52.228-3
- 2004 – Numerous OSD/USACE Meetings
- 2004 – Numerous Questions from Industry

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Objectives

- Make Affordable
- Similar to USAID & Dept of State Programs
- Risk Pooling
- Centrally-Managed
- Develop Business Case Analysis

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Significant Milestones

- Sources Sought 24 Feb 04
- Draft Solicitation 10 Aug 04
- Industry Forum 27 Aug 04
- Pre-Solicitation Notice 13 Jan 05
- Issued RFP 7 Mar 05
- Rev Proposal Due Date (3 Amends) 6 Jul 05
- Award to CNA Insurance 4 Nov 05
- Congressional Notification 22 Nov 05
- PIL Issued 29 Nov 05
- Delivery Order (12 mo POP) 1 Dec 05

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Solicitation and Contract Provisions

- Contract Information & Availability
- Enclosure to PIL 2006-01
- CNA's Proposed Management Plan
- Defense Base Act Insurance Rates
- Supplemental Clause to FAR 52.228-3
- For USACE Contractors and Subcontractors
- No Modification for Existing Contracts

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The provision "Defense Base Act Insurance Rates – Limitation – Fixed-Price (Nov 2005)" **shall be included in solicitations** for fixed-price contracts to be performed outside the U.S. by U.S. or foreign contractors.

DEFENSE BASE ACT INSURANCE RATES – LIMITATION – FIXED-PRICE (NOV 2005)

(a) The U. S. Army Corps of Engineers (USACE) has entered into a contract with an insurance carrier to provide Defense Base Act (DBA) insurance to USACE contractors at a contracted rate under the OSD/USACE Centrally-Managed Pilot DBA Insurance Program. The rates for this insurance are as follows:

Services @ $5.00 per $100 of compensation; or
Construction @ $8.50 per $100 of compensation.

(b) Bidders/Offerors should compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA totals in the spaces provided for the base period and whatever extension there may be thereafter, if applicable.

(1) Compensation of Covered Employees: _____
(2) Defense Base Act Insurance Costs: _____
(3) Total Cost: _____

(c) Bidders/Offerors shall include a statement as to whether or not local nationals or third country nationals will be employed on the

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The provision "Defense Base Act Insurance Rates – Limitation – Cost-Reimbursement, Labor Hour, and Time-and Materials (Nov 2005)" **shall be included in solicitations** for cost-reimbursement, labor-hour, or time-and-materials contracts to be performed outside the U.S. by U.S. or foreign contractors.

DEFENSE BASE ACT INSURANCE RATES – LIMITATION – COST-REIMBURSEMENT, LABOR-HOUR, AND TIME-AND-MATERIALS (NOV 2005)

(a) The U. S. Army Corps of Engineers (USACE) has entered into a contract with an insurance carrier to provide Defense Base Act (DBA) insurance to USACE contractors at a contracted rate. In preparing the cost proposal, the offeror shall use the following rates in computing the cost for DBA insurance.

Services @_$5.00 per $100 if compensation (direct salary plus differential, but excluding per diem, housing allowance, education allowance, and miscellaneous allowances); or

Construction @ $8.50 per $100 of compensation (direct salary plus differential, but excluding per diem, housing allowance, education allowance, and miscellaneous allowances)

(b) These rates apply to all job classifications in those particular categories. The successful offeror shall be advised of the name and address of the insurance broker who will process the DBA insurance coverage.

(c) Should an offeror compute or include higher DBA insurance rates, the rate shall be disallowed.

(d) Offerors shall include in their proposals a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

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Whenever Defense Base Act (DBA) insurance is required **under the contract**, the clause "Workers Compensation Insurance (Defense Base Act) – Services (Nov 2005)" **shall be included.**

If the contract is for construction, 1) revise the title of the clause to read as follows:
WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) – CONSTRUCTION (NOV 2005)
and 2) substitute the last sentence of the paragraph (b) to read as follows: The current rate under the USACE contract is
$8.50 per $100 of compensation for construction.

WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) – SERVICES (NOV 2005)

(a) This clause supplements FAR Clause 52.228-3.

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the
U.S. Army Corps of Engineers (USACE) and the USACE DBA insurance carrier unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award. ***The current rate under the USACE contract is $5.00 per***
$100 of compensation for services.

(c) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.

(d) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, USACE shall modify the contract accordingly.

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Department of Labor

- The DBA applies to all contractor/subcontractor employers, **regardless of nationality**.
- The DBA applies to all contractor/subcontractor employees, **regardless of nationality**.
- DOL, OWCP, Division of Longshore & Harbor Workers' Compensation, administers the Defense Base Act (DBA).
- OWCP's mission is to ensure that prompt and appropriate workers' compensation benefits under the DBA are paid in the event of injury or death of contractor/subcontractor employees.
- USACE should ensure that all contractors and subcontractors obtain DBA insurance **before** commencement of operations overseas.
- For more information, visit the OWCP Defense Base Act website at http://www.dol.gov/esa/owcp/dlhwc/lsdba.htm.
- Send questions via email to DLHWC-Public@dol.gov, or call Miranda Chiu at 202-693-0865.

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CNA Insurance Carrier

- Cover issued in Continental Insurance Company, a CNA Company
- Exclusive Administrative Broker – Rutherfoord International Insurance in Alexandria, VA
- Rutherfoord contact is James Walczak – 703-813-6544 or jim.walczak@rutherfoord.com
- Claims department located centrally in Chicago, IL
- All policies contain claims reporting information and kits
- Separate policies for sub-contractors

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Contact Information

- **HECSA Contracting Office**
  - KO: Lynn Harper (703)428-7406 lynn.m.harper@hq02.usace.army.mil
  - Contract Specialist: Susan Burchell (703) 428-8487 susan.m.burchell@hq.usace.army.mil
- **USACE Project Manager**
  - Bunnatine Greenhouse (202) 761-7169 Bunnatine.h.greenhouse@usace.army.mil
- **Department of Labor**
  - Miranda Chiu (202) 693-0865 Chiu.miranda@dol.gov
- **OSD**
  - Christopher Werner (703) 695-9764 Christopher.werner@osd.mil
- **CNA Insurance – Contractor – Insurance Carrier**
  - Roger Ellickson (312) 822-4395 Roger.ellickson@cna.com
- **Rutherfoord International – Insurance Broker**
  - James Walczak (703) 813-6544 jim.walczak@rutherfoord.com

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Contact Information

- **Insurance Carrier**

  The Continental Insurance Co.
  Roger Ellickson
  DBA CNA Insurance
  333 S. Wabash Avenue
  Chicago, IL 60685-1809

- **Insurance Broker**

  Rutherfoord International
  James Walczak
  5500 Cherokee Avenue, Suite 300
  Alexandria, VA 22312

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Questions/Comments?